

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 WESLEY MARTIN,

4 Plaintiff

Case No. 3:21-cv-00199-MMD-WGC

ORDER

5 v.

6 STATE OF NEVADA, *et al.*,

7 Defendants
8

9 **I. DISCUSSION**

10 On April 29, 2021, Plaintiff, an inmate in the custody of the Nevada Department of
11 Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF
12 No. 1-1). Plaintiff has neither paid the full \$402 filing fee for this matter nor filed an
13 application to proceed *in forma pauperis*.

14 The Court notes Plaintiff submitted his complaint (ECF No. 1-1) using a state court
15 form. In the event Plaintiff wishes to pursue this case in state court rather than this Court,
16 Plaintiff should file a motion to voluntarily dismiss this case. In the event Plaintiff does
17 intend to pursue his case in this Court, Plaintiff is directed to either pay the full \$402 filing
18 fee or file a complete application to proceed *in forma pauperis*. The Court will not file
19 Plaintiff's complaint unless and until Plaintiff timely files a fully complete application to
20 proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

21 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
22 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
23 action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the
24 inmate must submit all three of the following documents to the Court:

25 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this
26 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
27 page 3),

28 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail

1 official (i.e. page 4 of this Court's approved form), and
2 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
3 **previous six-month period.**

4 The Court will grant Plaintiff a **one-time** opportunity to file a fully complete
5 application to proceed *in forma pauperis* containing **all three** of the required documents,
6 or in the alternative, pay the full \$402 filing fee for this action on or before **July 6, 2021**.
7 Absent unusual circumstances, the Court will **not** grant any further extensions of time.

8 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*
9 with all three required documents or pay the full \$402 filing fee on or before **July 6, 2021**,
10 this case will be subject to dismissal **without prejudice** for Plaintiff to file a new case with
11 the Court when Plaintiff is either able to acquire all three of the documents needed to file
12 a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

13 A dismissal **without prejudice** means Plaintiff does not give up the right to refile the
14 case with the Court, under a new case number, when Plaintiff has all three documents
15 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff
16 may choose not to file an application to proceed *in forma pauperis* and instead pay the
17 full filing fee of \$402 on or before **July 6, 2021** to proceed with this case.

18 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court
19 will not file the complaint unless and until Plaintiff timely files a fully complete application
20 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

21 **II. CONCLUSION**

22 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send
23 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well
24 as the document entitled information and instructions for filing an *in forma pauperis*
25 application.

26 IT IS FURTHER ORDERED that on or before **July 6, 2021**, Plaintiff will either pay
27 the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
28 administrative fee) or file with the Court:

1 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
2 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
3 signatures on page 3),

4 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
5 official (i.e. page 4 of this Court's approved form), and

6 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
7 **previous six-month period.**

8 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
9 application to proceed *in forma pauperis* with all three documents or pay the full \$402
10 filing fee for a civil action on or before **July 6, 2021**, this case will be subject to dismissal
11 without prejudice for Plaintiff to refile the case with the Court, under a new case number,
12 when Plaintiff has all three documents needed to file a complete application to proceed
13 *in forma pauperis* or pays the full \$402 filing fee.

14 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
15 (ECF No.1-1) but will not file it at this time.

16 DATED: May 4, 2021

17 William G. Cobb
18 UNITED STATES MAGISTRATE JUDGE
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